

*Singh v. Mukasey*, No. 06-70838

MAR 10 2008

Reinhardt, Circuit Judge, dissenting

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

Because, in my opinion, none of the four grounds upon which the IJ relied in making his adverse credibility determination meets even our deferential standard of review for substantial evidence, I dissent. First and foremost, the ground relied upon by the majority cannot be sustained. The IJ did not explain his rejection of Singh's entirely plausible testimony that an agent acquired his travel documents and that he therefore had no knowledge of their contents. *See Garrovillas v. INS*, 156 F.3d 1010, 1013 (9th Cir. 1998) (holding adverse credibility determination unsupported by substantial evidence where the "BIA did not comment on [alien's] explanation, nor suggest any reason that it found his explanation not credible"). Moreover, the IJ impermissibly speculated that a fake passport would not contain stamps from prior travels. *See, e.g., Ge v. Ashcroft*, 367 F.3d 1121, 1125-26 (9th Cir. 2004) (reversing adverse credibility determination where IJ's findings were "based on impermissible speculation").

Second, the three grounds that the majority declines to address are equally insufficient to support the IJ's determination. One, Singh testified to the goals of the pro-Sikh opposition party including fair crop prices and water distribution, and was never asked about the party's views on Khalistan at the hearing. Two, as the Government concedes, Singh testified consistently about the police inspector

responsible for his third arrest. Three, the distinction between “CI” and “CIA” is the type of trivial error that we have consistently found to be an insufficient basis for an adverse credibility determination. *See Jibril v. Gonzales*, 423 F.3d 1129, 133 (9th Cir. 2005) (explaining that “[t]rivial errors by an asylum applicant do not constitute a valid ground upon which to base a finding that an asylum applicant is not credible”) (internal citation and quotation marks omitted).

I would grant the petition for review.